EXTENSIONS OF REMARKS

INTRODUCTION OF THE "HOME FORECLOSURE REDUCTION ACT OF 2013"

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. CONYERS. Mr. Speaker, the "Home Foreclosure Reduction Act of 2013," permits a bankruptcy judge to reduce the principal amount of an underwater mortgage to the fair market value of the home, which will encourage homeowners to make their mortgage payments and help stop the endless cycle of foreclosures which further depresses home values. It also authorizes the mortgage's repayment period to be extended so that monthly mortgage payments are more affordable. In addition, the bill permits exorbitant mortgage interest rates to be reduced to a level that will keep the mortgage affordable over the long-term. And, it authorizes the waiver of prepayment penalties and excessive fees. Further, the bill would allow hidden fees and unauthorized costs to be eliminated.

This bill addresses the fundamental problem with every privately-sponsored and government program that has previously been developed to deal with the home foreclosure crisis. Unlike every other government program, this legislation empowers a homeowner to force the lender to modify the terms of the mortgage by allowing the principal amount of the mortgage to be reduced to the home's fair market value, which numerous economists and housing experts agree is the most effective way to respond to the foreclosure crisis. And, unlike every other government program, the implementation of this measure will not cost taxpayers a single penny.

This legislation is identical to H.R. 1587, which was introduced in the 112th Congress, and contains similar provisions included in H.R. 1106, which the House passed nearly three years ago. Unfortunately, those provisions were taken out in the Senate and not included in the final version of the bill that was subsequently enacted into law.

SECTION-BY-SECTION DESCRIPTION OF THE "HOME FORECLOSURE REDUCTION ACT OF 2013"

Section 1. Short Title. Section 1 sets forth the short title of this Act as the "Home Foreclosure Reduction Act of 2013."

Section 2. Definition. Bankruptcy Code section 101 defines various terms. Section 2 amends this provision to add a definition of "qualified loan modification," which is defined as a loan modification agreement made in accordance with the guidelines of the Obama Administration's Homeowner Affordability and Stability Plan, as implemented on March 4, 2009 with respect to a loan secured by a senior security interest in the debtor's principal residence. To qualify as such, the agreement must reduce the debtor's mortgage payment (including principal and interest) and payments for various other specified expenses (i.e., real estate taxes, hazard insurance, mortgage insurance premium, homeowners' association dues, ground rent, and special assessments) to a percentage of the debtor's income in accordance with such guidelines. The payment may not include any period of negative amortization and it must fully amortize the outstanding mortgage principal. In addition, the agreement may not require the debtor to pay any fees or charges to obtain the modification. Further, the agreement must permit the debtor to continue to make these payments as if he or she had not filed for bankruptcy relief.

Section 3. Eligibility for Relief. Section 3 amends Bankruptcy Code section 109, which specifies the eligibility criteria for filing for bankruptcy relief, in two respects. First, it amends Bankruptcy Code section 109(e), which sets forth secured and unsecured debt limits to establish a debtor's eligibility for relief under chapter 13. Section 3 amends this provision to provide that the computation of debts does not include the secured or unsecured portions of debts secured by the debtor's principal residence, under certain circumstances. The exception applies if the value of the debtor's principal residence as of the date of the order for relief under chapter 13 is less than the applicable maximum amount of the secured debt limit specified in section 109(e). Alternatively, the exception applies if the debtor's principal residence was sold in foreclosure or the debtor surrendered such residence to the creditor and the value of such residence as of the date of the order for relief under chapter 13 is less than the secured debt limit specified in section 109(e). This amendment is not intended to create personal liability on a debt if there would not otherwise be personal liability on such debt.

Second, section 3 amends Bankruptcy Code section 109(h), which requires a debtor to receive credit counseling within the 180-day period prior to filing for bankruptcy relief, with limited exception. Section 3 amends this provision to allow a chapter 13 debtor to satisfy this requirement within 30 days after filing for bankruptcy relief if he or she submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure proceeding.

Section 4. Prohibiting Claims Arising from Violations of the Truth in Lending Act. Under the Truth in Lending Act, a mortgagor has a right of rescission with respect to a mortgage secured by his or her residence, under certain circumstances. Bankruptcy Code section 502(b) enumerates various claims of creditors that are not entitled to payment in a bankruptcy case, subject to certain exceptions. Section 4 amends Bankruptcy Code section 502(b) to provide that a claim for a loan secured by a security interest in the debtor's principal residence is not entitled to payment in a bankruptcy case to the extent that such claim is subject to a remedy for rescission under the Truth in Lending Act, notwithstanding the prior entry of a foreclosure judgment. In addition, section 4 specifies that nothing in this provision may be construed to modify, impair, or supersede any other right of the debtor.

Section 5. Authority to Modify Certain Mortgages. Under Bankruptcy Code section 1322(b)(2), a chapter 13 plan may not modify the terms of a mortgage secured solely by real property that is the debtor's principal residence. Section 5 amends Bankruptcy Code section 1322(b) to create a limited exception to this prohibition. The exception only applies to a mortgage that: (1) originated before the effective date of this amendment; and (2) is the subject of a notice that a foreclosure may be (or has been) commenced with respect to such mortgage.

In addition, the debtor must certify pursuant to new section 1322(h) that he or she contacted—not less than 30 days before filing for bankruptcy relief—the mortgagee (or the entity collecting payments on behalf of such mortgagee) regarding modification of the mortgage. The debtor must also certify that he or she provided the mortgagee (or the entity collecting payments on behalf of such mortgagee) a written statement of the debtor's current income, expenses, and debt in a format that substantially conforms with the schedules required under Bankruptcy Code section 521 or with such other form as promulgated by the Judicial Conference of the United States. Further, the certification must include a statement that the debtor considered any qualified loan modification offered to the debtor by the mortgagee (or the entity collecting payments on behalf of such holder). This requirement does not apply if the foreclosure sale is scheduled to occur within 30 days of the date on which the debtor files for bankruptcy relief. If the chapter 13 case is pending at the time new section 1322(h) becomes effective, then the debtor must certify that he or she attempted to contact the mortgagee (or the entity collecting payments on behalf of such mortgagee) regarding modification of the mortgage before either: (1) filing a plan under Bankruptcy Code section 1321 that contains a modification pursuant to new section 1322(b)(11); or (2) modifying a plan under Bankruptcy Code section 1323 or section 1329 to contain a modification pursuant to new section 1322(b)(11).

Under new section 1322(b)(11), the debtor may propose a plan modifying the rights of the mortgagee (and the rights of the holder of any claim secured by a subordinate security interest in such residence) in several respects. It is important to note that the intent of new section 1322(b)(11) is permissive. Accordingly, a chapter 13 may propose a plan that proposes any or all types of modification authorized under section 1322(b)(11).

First, the plan may provide for payment of the amount of the allowed secured claim as determined under section 506(a)(1). In making such determination, the court, pursuant to new section 1322(i), must use the fair market value of the property at the date that such value is determined. If the issue of value is contested, the court must determine such value in accordance with the appraisal rules used by the Federal Housing Administration.

Second, the plan may prohibit, reduce, or delay any adjustable interest rate applicable on, and after, the date of the filing of the plan.

Third, it may extend the repayment period of the mortgage for a period that is not longer than the longer of 40 years (reduced by the period for which the mortgage has been outstanding) or the remaining term of the mortgage beginning on the date of the order for relief under chapter 13.

Fourth, the plan may provide for the payment of interest at a fixed annual rate equal to the applicable average prime offer rate as of the date of the order for relief under chapter 13, as determined pursuant to certain specified criteria. The rate must correspond to the repayment term determined under new section 1322(b)(11)(C)(i) as published by the Federal Financial Institutions Examination Council in its table entitled, ''Average Prime Offer Rates—Fixed.'' In addition, the rate must include a reasonable premium for risk.

Fifth, the plan, pursuant to new section 1322(b)(11)(D), may provide for payments of such modified mortgage directly to the holder of the claim or, at the discretion of the court, through the chapter 13 trustee during the term of the plan. The reference in new section 1322(b)(11)(D) to ''holder of the claim'' is intended to include a servicer of such mortgage for such holder. It is anticipated that the court, in exercising its discretion with respect to allowing the debtor to make payments directly to the mortgagee or by requiring payments to be made through the chapter 13 trustee, will take into consideration the debtor's ability to pay the trustee's fees on payments disbursed through the trustee.

New section 1322(g) provides that a claim may be reduced under new section 1322(b)(11)(A) only on the condition that the debtor agrees to pay the mortgagee a stated portion of the net proceeds of sale should the home be sold before the completion of all payments under the chapter 13 plan or before the debtor receives a discharge under section 1328(b). The debtor must pay these proceeds to the mortgagee within 15 days of when the debtor receives the net sales proceeds.

If the residence is sold in the first year following the effective date of the chapter 13 plan, the mortgagee is to receive 90 percent of the difference between the sales price and the amount of the claim as originally determined under section 1322(b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under new section 1322(b)(11)(A). If the residence is sold in the second year following the effective date of the chapter 13 plan, then the applicable percentage is 70 percent. If the residence is sold in the third year following the effective date of the chapter 13 plan, then the applicable percentage is 50 percent. If the residence is sold in the fourth year following the effective date of the chapter 13 plan, then the applicable percentage is 30 percent. If the residence is sold in the fifth year following the effective date of the chapter 13 plan, then the applicable percentage is ten percent. It is the intent of this provision that if the unsecured portion of the mortgagee's claim is partially paid under this provision it should be reconsidered under 502(j) and reduced accordingly.

Section 6. Combating Excessive Fees. Section 6 amends Bankruptcy Code section 1322(c) to provide that the debtor, the debtor's property, and property of the bankruptcy estate are not liable for a fee, cost, or charge that is incurred while the chapter 13 case is pending and that arises from a claim for debt secured by the debtor's principal residence, unless the holder of the claim complies with certain requirements. It is the intent of this provision that its reference to a fee, cost, or charge includes an increase in any applicable rate of interest for such claim. It also applies to a change in escrow account payments.

To ensure such fee, cost, or charge is allowed, the claimant must comply with certain requirements. First, the claimant must file with the court and serve on the chapter 13 trustee, the debtor, and the debtor's attorney an annual notice of such fee, cost, or charge (or on a more frequent basis as the court determines) before the earlier of either: one year of when such fee, cost, or charge was incurred, or 60 days before the case is closed. Second, the fee, cost, or charge must be lawful under applicable nonbankruptcy law, reasonable, and provided for in the applicable security agreement. Third, the value of the debtor's principal residence must be 4 greater than the amount of such claim, including such fee, cost or charge.

If the holder fails to give the required notice, such failure is deemed to be a waiver of any claim for such fees, costs, or charges for all purposes. Any attempt to collect such fees, costs, or charges constitutes a violation of the Bankruptcy Code's discharge injunction under section 524(a)(2) and the automatic stay under section 362(a), whichever is applicable.

Section 6 further provides that a chapter 13 plan may waive any prepayment penalty on a claim secured by the debtor's principal residence.

Section 7. Confirmation of Plan. Bankruptcy Code section 1325 sets forth the criteria for confirmation of a chapter 13 plan. Section 7 amends section 1325(a)(5) (which specifies the mandatory treatment that an allowed secured claim provided for under the plan must receive) to provide an exception for a claim modified under new section 1322(b)(11). The amendment also clarifies that payments under a plan that includes a modification of a claim under new section 1322(b)(11) must be in equal monthly amounts pursuant to section 1325(a)(5)(B)(iii)(I).

In addition, section 7 specifies certain protections for a creditor whose rights are modified under new section 1322(b)(11). As a condition of confirmation, new section 1325(a)(10) requires a plan to provide that the creditor must retain its lien until the later of when: (1) the holder's allowed secured claim (as modified) is paid; (2) the debtor completes all payments under the chapter 13 plan; or (3) if applicable, the debtor receives a discharge under section 1328(b).

Section 7 also provides standards for confirming a chapter 13 plan that modifies a claim pursuant to new section 1322(b)(11). First, the debtor cannot have been convicted of obtaining by actual fraud the extension, renewal, or refinancing of credit that gives rise to such modified claim. Second, the modification must be in good faith. Lack of good faith exists if the debtor has no need for relief under this provision because the debtor can pay all of his or her debts and any future payment increases on such debts without difficulty for the foreseeable future, including the positive amortization of mortgage debt. In determining whether a modification under section 1322(b)(11) that reduces the principal amount of the loan is made in good faith, the court must consider whether the holder of the claim (or the entity collecting payments on behalf of such holder) has offered the debtor a qualified loan modification that would enable the debtor to pay such debts and such loan without reducing the principal amount of the mortgage.

Section 7 further amends section 1325 to add a new provision. New section 1325(d) authorizes the court, on request of the debtor or the mortgage holder, to confirm a plan proposing to reduce the interest rate lower than that specified in new section 1322(b)(11)(C)(ii), provided: (1) the modification does not reduce the mortgage principal; (2) the total mortgage payment is reduced through interest rate reduction to the percentage of the debtor's income that is the standard for a modification in accordance with the Obama Administration's Homeowner Affordability and Stability Plan, as implemented on March 4, 2009; (3) the court determines that the debtor can afford such modification in light of the debtor's financial situation, after allowance of expense amounts that would be permitted for a debtor subject to section 1325(b)(3), regardless of whether the debtor is otherwise subject to such paragraph, and taking into account additional debts and fees that are to be paid in chapter 13 and thereafter; and (4) the debtor is able to prevent foreclosure and pay a fully amortizing 30-year loan at such reduced interest rate without such reduction in principal. If the mortgage holder accepts a debtor's proposed modification under this provision, the plan's treatment is deemed to satisfy the requirements of section 1325(a)(5)(A) and the proposal should not be rejected by the court.

Section 8. Discharge. Bankruptcy Code section 1328 sets forth the requirements by which a chapter 13 debtor may obtain a discharge and the scope of such discharge. Section 8 amends section 1328(a) to clarify that the unpaid portion of an allowed secured claim modified under new section 1322(b)(11) is not discharged. This provision is not intended to create a claim for a deficiency where such a claim would not otherwise exist.

Section 9. Standing Trustee Fees. Section 9(a) amends 28 U.S.C. §586(e)(1)(B)(i) to provide that a chapter 13 trustee may receive a commission set by the Attorney General of no more than four percent on payments made under a chapter 13 plan and disbursed by the chapter 13 trustee to a creditor whose claim was modified under Bankruptcy Code section 1322(b)(11), unless the bankruptcy court waives such fees based on a determination that the debtor has income less than 150 percent of the official poverty line applicable to the size of the debtor's family and payment of such fees would render the debtor's plan infeasible.

With respect to districts not under the United States trustee system, section 9(b) makes a conforming revision to section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986.

Section 10. Effective Date; Application of Amendments. Section 10(a) provides that this measure and the amendments made by it, except as provided in subsection (b), take effect on the Act's date of enactment.

Section 10(b)(1) provides, except as provided in paragraph (2), that the amendments made by this measure apply to cases commenced under title 11 of the United States Code before, on, or after the Act's date of enactment. Section 10(b)(2) specifies that paragraph (1) does not apply with respect to cases that are closed under the Bankruptcy Code as of the date of the enactment of this Act.

Section 11. GAO Study. Section 11 requires the Government Accountability Office to complete a study and to submit a report to the House and Senate Judiciary Committees within two years from the enactment of this Act a report. The report must contain the results of the study of: (1) the number of debtors who filed cases under chapter 13, during the one-year period beginning on the date of the enactment of this Act for the purpose of restructuring their principal residence mortgages; (2) the number of mortgages restructured under this Act that subsequently resulted in default and foreclosure; (3) a comparison between the effectiveness of mortgages restructured under programs outside of bankruptcy, such as Hope Now and Hope for Homeowners, and mortgages restructured under this Act; (4) the number of appeals in cases where mortgages were restructured under this Act; (5) the number of such appeals where the bankruptcy court's decision was overturned; and (6) the number of bankruptcy judges disciplined as a result of actions taken to restructure mortgages under this Act. In addition, the report must include a recommendation as to whether such amendments should be amended to include a sunset clause.

Section 12. Report to Congress. Not later than 18 months after the date of enactment of this Act, the Government Accountability Office, in consultation with the Federal Housing Administration, must submit to Congress a report containing: (1) a comprehensive review of the effects of the Act's amendments on bankruptcy courts; (2) a survey of whether the types of homeowners eligible for the program should be limited; and (3) a recommendation on whether such amendments should remain in effect.

GUAM WORLD WAR II LOYALTY RECOGNITION ACT

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Ms. BORDALLO. Mr. Speaker, today I have introduced the Guam World War II Loyalty Recognition Act, a bill that would implement the findings of the Guam War Claims Review Commission. Since being elected to the House of Representatives ten years ago, I have introduced a version of this legislation in each Congress. Over the last several Congresses, H.R. 44 passed the House on five separate occasions.

This bill would implement the recommendations of the Guam War Claims Review Commission, which was appointed by Secretary of the Interior Gale Norton and established by an Act of the 107th Congress (Public Law 107–333). The Review Commission, in a unanimous report to Congress in June 2004, found that there were significant disparities in the treatment of war claims for the people of Guam as compared with war claims for other Americans. The Review Commission also found that the occupation of Guam was especially brutal due to the unfailing loyalty of the people of Guam to the United States of America. The people of Guam were subjected to forced labor, forced marches, internment, beatings, rapes and executions, including public beheadings. The Review Commission recommended that Congress remedy this injustice through the enactment of legislation to authorize payment of claims in amounts specified. Specifically, the bill would authorize discretionary spending to pay claims consistent with the recommendations of the commission.

It is important to note that the Review Commission found that the United States Government seized Japanese assets during the war and that the record shows that settlement of claims was meant to be paid from these forfeitures. Furthermore, the United States signed a Treaty of Peace with Japan on September 8, 1951, which precludes Americans from making claims against Japan for war reparations. The treaty closed any legal mechanism for seeking redress from the Government of Japan, and the United States Government has settled claims for U.S. citizens and other nationals through various claims programs authorized by Congress.

The text that I introduce in this Congress addresses concerns that have been raised about the legislation. First, the text reflects a compromise that was reached with the Senate when they considered the legislation as a provision of the National Defense Authorization Act for Fiscal Year 2011. That compromise removes payment of claims to heirs of survivors who suffered personal injury during the enemy occupation. The bill continues to provide payment of claims to survivors of the occupation as well as to heirs of citizens of Guam who died during the occupation. The compromise continues to uphold the intent of recognizing the people of Guam for their loyalty to the United States during World War II.

Further, the bill that I introduce today contains an offset for the estimated cost of the bill. I understood the concerns express by some of my colleagues in a July 14, 2011 hearing on this legislation. My colleagues expressed concern that there was no offset to pay for the cost of the bill. Guam war claims has a very simple offset that will pay for the cost of the legislation over time. The bill would be paid by section 30 funding remitted to Guam through the U.S. Department of Interior at any level above section 30 funds that were remitted to Guam in fiscal year 2012. With the impending relocation of Marines from Okinawa to Guam as well as additional Navy and Air Force personnel relocating to Guam it is expected that Guam will receive additional section 30 funds. Claims would then be paid out over time based off the additional amounts that were made available in any given year. Not only does this offset address payment of claims but it only impacts my jurisdiction and is a credible source of funding that will ensure that claims will be paid.

Congressional passage of this bill has a direct impact on the future success of the military buildup. The need for Guam War Claims was brought about because of mishandling of war claims immediately following World War II by the Department of the Navy. The longstanding inequity with how Guam was treated for war reparations lingers today. If we do not bring this matter to a close I believe that support for the military build-up will erode and impact the readiness of our forces and the bilateral relationship with Japan.

Mr. Speaker, resolving this issue is a matter of justice. This carefully crafted compromise legislation addresses the concerns of the Senate and fiscal conservatives in the House of Representatives. This bill represents a unique opportunity to right a wrong because many of the survivors of the occupation are nearing the end of their lives. It is important that the Congress act on the recommendations of the Guam War Claims Review Commission to finally resolve this longstanding injustice for the people of Guam.

RECOGNIZING THE 100TH ANNIVERSARY OF JOE'S STONE CRAB

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to recognize Joe's Stone Crab on the occasion of its 100th anniversary. Established in 1913 by Hungarian-born Joseph "Joe" Weiss, Joe's Stone Crab has since gone from being a small lunch counter in a quiet, backwater town to a beloved institution in the Miami Beach community.

The story of Joe's Stone Crab is truly an American one. Joe and his wife Jennie were both Hungarian immigrants living in New York when their son Jesse was born in 1907. At the time, Joe was a waiter and Jennie cooked in small restaurants. Suffering from asthma, Joe's doctors told him that a change of climate was the only remedy.

According to Jesse, his father borrowed fifty dollars on his life insurance policy and left his family in New York to try his luck in Florida. After one night in Miami, Joe took the ferry boat to Miami Beach, where he was able to breathe. He stayed there and started running a lunch stand at Smith's bathing casino in 1913, serving top-notch fish sandwiches and fries. That was the beginning of the restaurant that would later grow to become Joe's.

Joe sent for his wife and son to join him in Florida. In 1918, Joe and Jennie bought a bungalow near the casino on Biscayne Street. They moved into the back, set up seven or eight tables on the front porch, and called it Joe's Restaurant. Jennie waited on tables, Joe cooked, and everything grew from there. For about eight years, Joe's was the only restaurant on the beach, serving snapper, pompano, mackerel, and meat dishes all day long.

Joe's Restaurant was a hit, but stone crabs were still yet to come. At the time, no one knew that the local crustacean was even edible. In 1921, James Allison, Fisher's partner in the Speedway, built an aquarium at the foot of the bay and Fifth Street. He invited a Harvard ichthyologist down to do research, who gave Joe the idea to serve stone crab. After much thought, Joe threw the stone crabs into boiling water and the rest was history. They served them cracked with hash brown potatoes, coleslaw, and mayonnaise, and they became an instant success.

Although his parents started Joe's, Jesse Weiss became its face and brought in the VIPs, from movie stars to journalists to politicians, athletes, and gangsters. He knew everyone, and everyone who came into Joe's wanted to see him. At the age of 75, Miami anchorwoman Ann Bishop spent many hours recording his memories, particularly the love and support of his family in keeping Joe's Stone Crab going through the years.

Anyone who is anyone, from anywhere in the world, would stop in at Joe's if they were in Miami Beach. Notable guests include Al Capone, Will Rogers, Amelia Earhart, the Duke and Duchess of Windsor, Gloria Swanson and Joseph Kennedy, J. Edgar Hoover, Walter Winchell, and Damon Runyon.

Mr. Speaker, Joe's Stone Crab is a monument to the people who built it and those who continue its legacy: Joe and Jennie Weiss, their son Jesse, granddaughter Jo Ann, and the entire Joe's family. I have frequented Joe's on numerous occasions and always enjoyed a marvelous meal. Please join me in congratulating the entire Joe's Stone Crab family on this momentous occasion. I wish them another 100 years of success and, of course, great food and company.

THE INTRODUCTION OF THE REHAB AND AHMED AMER FOSTER CARE IMPROVEMENT ACT OF 2013

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. CONYERS. Mr. Speaker, today, I introduced the Rehab and Ahmed Amer Foster Care Improvement Act of 2013, which is substantively identical to a bill I introduced in the 112th Congress. It will enhance the existing federal policy of encouraging state foster care programs to place children in the care of willing and able relatives.

This legislation accomplishes that goal by requiring States that receive federal funding for foster care programs to add certain procedural enhancements to their foster care programs so as to ensure a more fair placement decision-making process.

Specifically, my bill requires that, within 90 days after a State makes a foster care placement decision, the State must provide notice of such decision to the following affected parties: the child's parents; relatives who have informed the State of their interest in caring for the child; the guardian; the guardian ad litem of the child; the attorney for the child; the attorney for each parent of the child; the prosecutor involved; and the child if he or she is able to express an opinion regarding placement.

Additionally, States must establish procedures that: allow any of the parties who receive notice of the State's placement decision to request, within five days after receipt of the notice, documentation of the reasons for the State's decision; allow the child's attorney to petition the court involved to review the decision; and require the court to commence such review within seven days after receipt of the petition and conduct such review on the record.

The harrowing story of Rehab and Ahmed Amer of Dearborn, Michigan prompted me to craft this bill.

In 1985, the Amers lost two of their children to Michigan's foster care system after Rehab had been subject to criminal charges related to the death of her two-year-old son Samier, who died because of head injuries resulting from a fall in a bathtub.

Although Rehab had been acquitted in August 1986 of any criminal wrongdoing in connection with Samier's death, the State refused to return the Amers' other two children to them and, in fact, removed a third child from the Amers' custody four months after Rehab's acquittal.

As a temporary alternative, Rehab's brother petitioned to be a foster parent to the Amers' three children, but was denied his petition even though he had previously served as a foster parent for other children.

It is important to note that the Amers are Muslim. Nevertheless, the State, rather than placing the Amers' children with a foster family of the same faith and cultural background, sent them to live with an evangelical Christian family, which re-named the Amers' children—Mohamed Ali, Sueheir, and Zinabe—with Christian names and raised them as Christians.

Today, only the oldest of the Amers' three living children, Mohamed Ali, now known as Adam, communicates with them.

In reaction to the Amers' story, Michigan enacted what became known as the Amer Law. That law requires foster care placement agencies in Michigan to consider and give special preference for relatives when making a foster care placement decision.

The Amer Law is consistent with federal foster care policy, which also seeks to give preference to a child's relatives and, for Native American children, a family of the same cultural background as the child, when making placement decisions.

The Amer Law, however, has several provisions that go beyond current federal law to ensure due process. In sum, this law gives parents, relatives, guardians, and the child in certain cases additional procedural rights, including the right to written notice and an explanation of a placement decision. In addition, it authorizes judicial review of a placement decision by a foster care agency.

My legislation simply adds these enhanced due process features of the Amer Law to existing federal foster care law.

The best interests of the child should always be the overriding consideration when making foster care placement decisions. That standard should also require foster care agencies to give special preference to placing a child with relatives, where the child can be raised in the same culture or religion as his or her own, all other things being equal.

I thank Rehab and Ahmed Amer for bringing this issue to light and for their tireless efforts to make the foster care placement process fairer for everyone, first in Michigan, and, now, nationally.

RECOGNIZING SPRINGFIELD CATHOLIC HIGH SCHOOL BOYS SOCCER

HON. BILLY LONG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. LONG. Mr. Speaker, I rise today to recognize the Springfield Catholic High School Boys Soccer Team and its back-to-back victories in the 2011 and 2012 Class 1 State Championships.

Springfield Catholic has the honor of being the first boys' soccer state champion team from Southwest Missouri. The Springfield Catholic Fightin' Irish finished their season with 27 wins and 4 losses after their 1–0 victory over Southern Boone in the championship. The Irish soccer program is just 6 seasons old but holds 5 straight "Final Four" appearances and two back-to-back state championships.

I congratulate Head Coach Tom Guinn, Assistant Coach Matthew Walton and all of the players on their victory and applaud the hard work that has brought them so much success. I am proud to recognize the athletic achievements of the residents of the Seventh District of Missouri.

INTRODUCTION OF A 3-PART BALANCED BUDGET CONSTITUTIONAL AMENDMENT

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. GOODLATTE. Mr. Speaker, I rise to reintroduce legislation that will amend the United States Constitution to force Congress to rein in spending by balancing the federal budget.

We have a spending addiction in Washington, D.C., and it has proven to be an addiction that Congress cannot control on its own and which is bringing dire consequences. We have gone in a few short years from a deficit of billions of dollars to a deficit of trillions of dollars. We are printing money at an unprecedented pace, which presents serious risks of massive inflation. Our national debt recently surpassed an astonishing $16 trillion and continues to rapidly increase, along with the waste associated with paying the interest on that debt.

Our first Secretary of State, Thomas Jefferson, warned of the consequences of out-of-control debt when he wrote: "To preserve [the] independence [of the people,] we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude." Unfortunately, it increasingly appears that Congress has chosen the latter path.

Our current Secretary of State, Hillary Clinton, issued a similar warning when she recently declared: "I think that our rising debt levels [sic] poses a national security threat, and it poses a national security threat in two ways. It undermines our capacity to act in our own interest, and it does constrain us where constraint may be undesirable. And it also sends a message of weakness internationally." Despite these warnings, Congress has refused to address this crisis.

Congress' spending addiction is not a partisan one. It reaches across the aisle and afflicts both parties, which is why neither party has been able to master it. We need outside help. We need pressure from outside Congress to force Congress to rein in this out-of-control behavior. We need a balanced budget amendment to our Constitution.

That is why I am introducing this legislation—a commonsense, 3-part balanced budget Constitutional amendment which garnered the support of 133 bipartisan cosponsors last Congress. This bill would (1) amend the Constitution to require that total spending for any fiscal year not exceed total receipts; (2) require that bills to raise revenues pass each House of Congress by a 3/5 majority; and (3) establish an annual spending cap such that total federal spending could not exceed 1/5 of the economic output of the United States.

The bill would also require a 3/5 majority vote for any increases in the debt limit.

The legislation provides an exception in times of war and during military conflicts that pose imminent and serious military threats to national security.

Our federal government must be lean, efficient and responsible with the dollars that our nation's citizens worked so hard to earn. We must work to both eliminate every cent of waste and squeeze every cent of value out of each dollar our citizens entrust to us. Families all across our nation understand what it means to make tough decisions each day about what they can and cannot afford and government officials should be required to exercise similar restraint when spending the hard-earned dollars of our nation's citizens.

By amending the Constitution to require a balanced budget, establish measurable spending limits, and make it harder to raise taxes, we can force the Congress to control spending, paving the way for a return to surpluses and ultimately paying down the national debt, rather than allow big spenders to lead us further down the road of chronic deficits and in doing so leave our children and grandchildren saddled with debt that is not their own.

49 out of 50 states have a balanced budget requirement, and it is time that the federal government had one too.

Our nation faces many difficult decisions in the coming years, and Congress will face great pressure to spend beyond its means rather than to make the difficult decisions about spending priorities. Unless Congress is forced to make the decisions necessary to create a balanced budget, it will always have the all-too-tempting option of shirking this responsibility. A Constitutional balanced budget requirement, combined with the spending and tax limitations in this legislation, will set our nation's fiscal policies on the right path. This is a common sense approach to ensure that Congress is bound by the same fiscal principles that guide America's families each day. I urge support of this important legislation.

INTRODUCTION OF THE PROTECTING EMPLOYEES AND RETIREES IN BUSINESS BANKRUPTCIES ACT OF 2013

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. CONYERS. Mr. Speaker, throughout our Nation's history, hardworking American men and women have labored to make our businesses become the most productive and dynamic in the world. Unfortunately, when some of these businesses encounter financial difficulties and seek to reorganize their debts under Chapter 11 of the Bankruptcy Code, these very same workers and retirees are often asked to make major sacrifices through lost job protections, lower wages, and the elimination of hard-won pension and health benefits, while the executives and managers of these business are not required to make comparable sacrifices.

Particularly now, as our economy continues to struggle and more businesses falter, we must do more to ensure that America's most important resource—workers and retirees—are treated more fairly when these businesses seek to reorganize their financial affairs under the protection of our bankruptcy laws.

The Protecting Employees and Retirees in Business Bankruptcies Act of 2013 accomplishes this goal by amending the Bankruptcy Code in several respects. First, it improves recoveries for employees and retirees by: (1) increasing the amount of worker claims entitled to priority payment for unpaid wages and contributions to employee benefit plans up to $20,000; (2) eliminating the difficult to prove restriction in current law that wage and benefit claims must be earned within 180 days of the bankruptcy filing in order to be entitled to priority payment; (3) allowing employees to assert claims for losses in certain defined contribution plans when such losses result from employer fraud or breach of fiduciary duty; (4) establishing a new priority administrative expense for workers' severance pay; and (5) clarifying that back pay awards for WARN Act damages are entitled to the same priority as back pay for other legal violations.

Second, the legislation reduces employees' and retirees' losses by: (1) restricting the conditions under which collective bargaining agreements and commitments to fund retiree pensions and health benefits may be eliminated or adversely affected; (2) preventing companies from singling out non-management retirees for concessions; (3) requiring a court to consider the impact a bidder's offer to purchase a company's assets would have on maintaining existing jobs and preserving retiree pension and health benefits; and (4) clarifying that the principal purpose of Chapter 11 bankruptcy is the preservation ofjobs to the maximum extent possible.

Third, the bill restricts excessive executive compensation programs by: (1) requiring full disclosure and court approval of executive compensation packages; (2) restricting the payment of bonuses and other forms of incentive compensation to senior officers and others; and (3) ensuring that insiders cannot receive retiree benefits if workers have lost their retirement or health benefits.

This legislation is identical to H.R. 6117, which was introduced in the prior Congress. It is supported by the AFL–CIO and many of its largest affiliates, and the United Steelworkers.

SECTION-BY-SECTION EXPLANATION OF THE ''PROTECTING EMPLOYEES AND RETIREES IN BUSINESS BANKRUPTCIES ACT OF 2013''

Sec. 1. Short Title. Section 1 sets forth the short title of the bill as the ''Protecting Employees and Retirees in Business Bankruptcies Act of 2013.'' It also includes a table of contents for the bill.

Sec. 2. Findings. Section 2 sets forth various findings in support of this bill.

TITLE I—IMPROVING RECOVERIES FOR EMPLOYEES AND RETIREES

Sec. 101. Increased Wage Priority. Bankruptcy Code section 507 accords priority in payment status for certain types of claims, i.e., these priority claims must be paid in full in the order of priority before general unsecured claims may be paid.

Section 507(a)(4) accords a fourth level priority to an unsecured claim up to $10,000 owed to an individual for wages, salaries, or commissions (including vacation, severance, and sick leave pay) earned within the 180-day period preceding the filing of the bankruptcy case or the date on which the debtor's business ceased, whichever occurs first. Section 101 amends section 507(a)(4) to increase the amount of the priority to $20,000 and eliminate the 180-day reachback limitation.

Bankruptcy Code section 507(a)(5) accords a fifth level priority for unsecured claims for contributions to an employee benefit plan arising from services rendered within the180-day period preceding the filing of the bankruptcy case or the date on which the debtor's business ceased (whichever occurs first). The amount of the claim is based on the number of employees covered by the plan multiplied by $10,0003less the aggregate amount paid to such employees pursuant to section 507(a)(4) and the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

Section 101 amends Bankruptcy Code section 507(a)(5) to: (1) increase the priority amount to $20,000; (2) eliminate the offset requirements; and (3) eliminate the 180-day limitation.

Sec. 102. Claim for Stock Value Losses in Defined Contribution Plans. Section 102 amends the Bankruptcy Code's definition of a claim to include a right or interest in equity securities of the debtor (or an affiliate of the debtor) held in a defined contribution plan for the benefit of an individual who is not an insider, senior executive officer or one of the 20 next most highly compensated employees of the debtor (if one or more are not insiders), providing: (1) such securities were attributable to employer contributions by the debtor (or an affiliate of the debtor), or by elective deferrals, together with any earnings thereon; and (2) the employer or plan sponsor who commenced the bankruptcy case either committed fraud with respect to such plan or ' otherwise breached a duty to the participant that proximately caused the loss of value.

Sec. 103. Priority for Severance Pay. Bankruptcy Code section 503(b) establishes an administrative expense payment priority for certain types of unsecured claims. Among all types of unsecured claims, administrative expenses are accorded the highest payment priority, i.e., they must be paid in full before priority and general unsecured claims may be paid.

Section 103 amends section 503(b) to accord administrative expense priority for severance pay owed to the debtor's employees (other than an insider, other senior management, or a consultant retained to provide services to the debtor) under a plan, program or policy generally applicable to the debtor's employees (but not under an individual contract of employment) or owed pursuant to a collective bargaining agreement for termination or layoff on or after the date the bankruptcy case was filed. Such pay is deemed earned in full upon such termination or layoff.

Sec. 104. Financial Returns for Employees and Retirees. Bankruptcy Code section 1129(a) specifies various criteria that must be satisfied before a chapter 11 plan of reorganization may be confirmed. Section 104 amends section 1129(a) to add a further requirement. The plan must provide for the recovery of damages for the rejection of a collective bargaining agreement or for other financial returns as negotiated by the debtor and the authorized representative under section 1113 to the extent such returns are paid under, rather than outside of a plan.

Section 104 also replaces Bankruptcy Code section 1129(a)(13), which pertains to the payment of retiree benefits under section 1114. As revised, section 1129(a)(13) requires that a plan provide for the continuation after the plan's effective date of the payment of all retiree benefits at the level established under either section 1114(e)(1)(B) or (g) at any time prior to confirmation of the plan, for the duration of the period for which the debtor has obligated itself to provide such benefits. If no modifications are made prior to confirmation of the plan, the plan must provide for the continuation of all retiree benefits maintained or established in whole or in part by the debtor prior to the petition filing date.

In addition, the plan must provide for recovery of claims arising from the modification of retiree benefits and other financial returns as negotiated by the debtor and the authorized representative to the extent such returns are paid under, rather than outside of, a plan.

Sec. 105. Priority for WARN Act Damages. Section 105 amends Bankruptcy Code section 503(b)(1)(A)(ii) to provide administrative expense status to wages and benefits awarded pursuant to a judicial or National Labor Relations Board proceeding as back pay or damages attributable to any period of time occurring after the commencement of the bankruptcy case. This provision applies where the award was made as a result of the debtor's violation of federal or state law, without regard to the time of the occurrence of unlawful conduct on which the award is based or to whether any services were rendered on or after the commencement of the bankruptcy case. It includes an award by a court under section 2901 of title 29 of the United States Code of up to 60 days' pay and benefits following a layoff that occurred or commenced at a time when such award period includes a period on or after the commencement of the case, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case under this title.

TITLE II—REDUCING EMPLOYEES' AND RETIREES' LOSSES

Sec. 201. Rejection of Collective Bargaining Agreements. Bankruptcy Code section 1113 sets forth the requirements by which a collective bargaining agreement may be assumed or rejected. Section 201 amends section 1113 in several respects. First, it amends section 1113(a) to clarify that a chapter 11 debtor may reject a collective bargaining agreement only in accordance with section 1113.

Second, it amends Bankruptcy Code section 1113(b) to clarify that no provision in title 11 of the United States Code may be construed to permit a trustee to unilaterally terminate or alter the terms of a collective bargaining agreement absent compliance with section 1113. The provision further specifies that the trustee must timely pay all monetary obligations arising under such agreement and that any payment required to be made pre-confirmation has the status of an allowed administrative expense under Code section 503.

Third, it amends Bankruptcy Code section 1113(c) to require a trustee, when seeking to modify a collective bargaining agreement, to provide notice of such proposed modification to the labor organization representing the employees covered by the agreement. The trustee must also promptly provide an initial proposal for modification. In addition, the trustee must confer in good faith with the labor organization, at reasonable times and for a reasonable period, given the complexity of the case, in an effort to reach a mutually acceptable modification of the agreement. Each modification proposal must be based on a business plan for the reorganization of the debtor and reflect the most complete and reliable information. As amended, section 1113(c) requires the trustee to provide to the labor organization all information relevant for negotiations. If such disclosure could compromise the debtor's position with respect to its competitors in the industry, the provision authorizes the court to issue a protective order, subject to the needs of the labor organization to evaluate the trustee's proposal and any application to reject the collective bargaining agreement or for interim relief under section 1113.

In consideration of Federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, any modification proposed by the trustee must: (1) only be proposed as part of a program of workforce and nonworkforce cost savings devised for the debtor's reorganization, including savings in management personnel costs; (2) be limited to modifications designed to achieve a specified aggregate financial contribution for employees covered by the agreement, taking into consideration any labor cost savings negotiated within the 12-month period prior to the filing of the bankruptcy case; (3) be no more than the minimum savings essential to permit the debtor to exit bankruptcy, such that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor; and (4) not be disproportionate or overly burden the employees covered by the agreement, either in the amount of the cost savings sought from such employees or the nature of the modifications.

Fourth, it amends Bankruptcy Code section 1113(d) to provide that if the trustee and the labor organization (after a period of negotiations) do not reach an agreement over mutually satisfactory modifications and further negotiations are not likely to produce mutually satisfactory modifications, the trustee may file a motion seeking rejection of the collective bargaining agreement after notice and a hearing. Absent agreement by the parties, the hearing may not be held earlier than 21 days from when notice of the hearing is provided. Only the debtor and the labor organization may appear and be heard at the hearing. An application for rejection must seek rejection effective upon the entry of an order granting such relief.

In consideration of Federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, section 1113(d) (as amended) provides that the court may grant a motion seeking rejection of such agreement only if the court: (1) finds that the trustee has complied with the requirements of section 1113(c); (2) has considered alternative proposals by the labor organization and concluded that such proposals do not meet the requirements of section 1113(c)(3)(B); (3) finds that further negotiations regarding the trustee's proposal or an alternative proposal by the labor organization are not likely to produce an agreement; (4) finds that implementation of the trustee's proposal will not: (a) cause a material diminution in the purchasing power of the employees covered by the agreement, (b) adversely affect the debtor's ability to retain an experienced and qualified workforce; or (c) impair the debtor's labor relations such that the ability to achieve a feasible reorganization will be compromised; and (5) concludes, based on clear and convincing evidence, that rejection of the agreement and immediate implementation of the trustee's proposal is essential to permit the debtor's exit from bankruptcy such that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor in the short term.

If the trustee has implemented a program of incentive pay, bonuses or other financial returns for insiders, senior executive officers, or the 20 next most highly compensated employees or consultants (or such a program was implemented within 180 days before the bankruptcy case was filed), the court must presume that the debtor has failed to satisfy the requirements of section 1113 (c)(3)(C).

Subsection (d), as amended, prohibits the court from entering an order rejecting a collective bargaining agreement that would result in modifications to a level lower than that proposed by the trustee in the proposal found by the court to have complied with the requirements of section 1113.

At any time after an order rejecting a collective bargaining agreement is entered (or mutually satisfactory agreement between the trustee and the labor organization is entered into), the labor organization may apply to the court for an order seeking an increase in the level of wages or benefits or relief from working conditions based on changed circumstances. The court must grant such relief only if the increase or other relief is not inconsistent with the standard set forth in section 1113(d)(2)(E).

Fifth, section 201 amends Bankruptcy Code section 1113(e) to provide that during the period in which a collective bargaining agreement at issue under this section continues in effect and if either essential to the continuation of the debtor's business or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim changes in the terms, conditions, wages, benefits, or work rules provided by the collective bargaining agreement. Any hearing under this provision must be scheduled in accordance of the trustee's needs. The implementation of such interim changes will not render the application for rejection moot.

Sixth, section 201 amends Bankruptcy Code section 1113(f) to provide that the rejection of a collective bargaining agreement constitutes a breach of such agreement and is effective no earlier than the entry of an order granting such relief. Solely for the purpose of determining and allowing a claim arising from rejection of a collective bargaining agreement, such rejection must be treated as a rejection of an executory contract under Code section 365(g) and shall be allowed or disallowed in accordance with section 502(g)(1). Subsection (f), as amended, further provides that no claim for rejection damages may be limited by section 502(b)(7). In addition, the provision permits economic self-help by a labor organization upon a court order granting rejection of a collective bargaining agreement under either subsection (d) or (e) of section 1113. It further provides that neither title 11 of the United States Code nor other provisions of State or Federal law may be construed to the contrary.

Seventh, section 201 adds new subsection (g) to require the trustee to provide for the reasonable fees and costs incurred by a labor organization under section 1113, upon request and after notice and a hearing.

Eighth, section 201 adds new subsection (h) to require the assumption of a collective bargaining agreement to be done in accordance with section 365.

Sec. 202. Payment of Insurance Benefits to Retired Employees. Bankruptcy Code section 1114 sets out criteria pursuant to which a debtor may modify retiree benefits, among other matters. Retiree benefits include payments to retired employees, their spouses, and dependents for medical, surgical, and hospital care benefits. It also includes benefits in the event of sickness, accident, disability, or death under any plan, fund or program.

Section 202 amends section 1114 in several respects. First, it amends the provision's definition of ''retiree benefits'' to specify that it applies whether or not the debtor asserts a right to unilaterally modify such benefits under such plan, fund or program.

Second, it amends Bankruptcy Code section 1114(b)(2), which specifies the rights, powers and duties of a committee of retired employees appointed by the court. As amended, the provision would apply to a labor organization serving as the authorized representative under section 1114(c)(1).

Third, section 202 replaces Bankruptcy Code section 1114(f), which requires a trustee to make a proposal to the authorized representative before seeking modification of retiree benefits. As amended, section 1114(f)(1) specifies that if a trustee seeks to modify retiree benefits, the trustee must provide notice of such proposed modification to the authorized representative as well as promptly provide the initial proposal. In addition, the trustee must thereafter confer in good faith with the labor organization, at reasonable times and for a reasonable period, given the complexity of the case, in attempting to reach a mutually satisfactory modification. Each modification must be based on a business plan for the reorganization of the debtor and reflect the most complete and reliable information available. The trustee must provide the authorized representative all information relevant for the negotiations. If such disclosure could compromise the debtor's position with respect to its competitors in the industry, the court may issue a protective order, subject to the needs of the authorized representative to evaluate the trustee's proposal and an application pursuant to subsection (g) or (h).

Modifications proposed by the trustee must: (1) only be proposed as part of a program of workforce and nonworkforce cost savings devised for the reorganization of the debtor, including savings in management personnel costs; (2) be limited to modifications designed to achieve a specified aggregate financial contribution for the retiree group represented by the authorized representative (taking into consideration any labor cost savings negotiated within the 12-month period prior to the filing of the bankruptcy case with respect to the retiree group); (3) be no more than the minimum savings essential to permit the debtor to exit bankruptcy, such that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor; and (4) not be disproportionate or overly burden the retiree group, either in the amount of the cost savings sought from such group or the nature of the modifications.

Fourth, section 202 amends Bankruptcy Code section 1113(g) to provide that if the trustee and the authorized representative do not reach a mutually satisfactory agreement (after a period of negotiations) and further negotiations are not likely to produce mutually satisfactory modifications, the trustee may file a motion seeking to modify the payment of retiree benefits after notice and a hearing. Absent agreement of the parties, the hearing may not be held earlier than 21 days from when notice of the hearing is provided. Only the debtor and the authorized representative may appear and be heard at the hearing.

The court may grant a motion to modify the payment of retiree benefits only if the court: (1) finds that the trustee complied with the requirements of section 1114(f); (2) considered any of the authorized representative's alternative proposals and determined that such proposals do not meet the requirements of section 1114(f)(3)(B); (3) finds that further negotiations are not likely to produce a mutually satisfactory agreement; (4) finds that implementation of the trustee's proposal will not cause irreparable harm to the affected retirees; and (5) concludes that, based on clear and convincing evidence, an order granting the trustee's proposal and its immediate implementation is essential to permit the debtor's exit from bankruptcy such that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor in the short term.

If the trustee has implemented a program of incentive pay, bonuses, or other financial returns for insiders, senior executive officers, or the 20 next most highly compensated employees or consultants (or such program was implemented within 180 days before the bankruptcy case was filed), the court must presume that the debtor failed to satisfy the requirements of section 1114(f)(3)(C).

Fifth, section 202 strikes subsection (k) and makes conforming revisions.

Sec. 203. Protection of Employee Benefits in a Sale of Assets. Section 203 amends Bankruptcy Code section 363(b), which authorizes a debtor to sell or use property of the estate other than in the ordinary course of business (under certain circumstances), to add a new requirement. New section 365(b)(3) requires the court, in approving a sale, to consider the extent to which a bidder's offer: (1) maintains existing jobs; (2) preserves terms and conditions of employment, and (3) assumes or matches pension and retiree benefit obligations in determining whether such offer constitutes the highest or best offer for the property.

Sec. 204. Claim for Pension Losses. Section 204 adds a new subsection to Bankruptcy Code section 502, which pertains to the allowance of claims and interests. New subsection (l) requires the court to allow a claim by an active or retired participant (or by a labor organization representing such participants) in a defined benefit pension plan terminated under section 4041 or 4042 of the Employee Retirement Income Security Act of 1974 (ERISA) for any shortfall in pension benefits accrued as of the effective date of the pension plan's termination as a result of such termination and limitations upon the payment of benefits imposed pursuant to section 4042 of such Act, notwithstanding any claim asserted and collected by the Pension Benefit Guaranty Corporation with respect to such termination.

In addition, section 204 adds subsection (m) to Bankruptcy Code section 502 to require a court to allow a claim described in Bankruptcy Code section 101(5)(C) (as amended by this legislation) by an active or retired participant (or a labor union representing such participant) in a defined contribution plan (within the meaning of section 3(34) of ERISA). The amount of such claim must be measured by the market value of the stock at the time of contribution to, or purchase by, the plan and the value as of the commencement of the case.

Sec. 205. Payments by Secured Lender. Bankruptcy Code section 506(c) authorizes the debtor to recover from property securing an allowed secured claim the reasonable and necessary expenses incurred to preserve or dispose of such property to the extent the secured creditor benefits from such expenditures. Section 205 amends section 506(c) to add a new provision. As amended, section 506(c) deems unpaid wages, accrued vacation, severance or other benefits owed under the debtor's policies and practices or owed pursuant to a collective bargaining agreement, for services rendered on and after commencement of the case to be necessary costs and expenses of preserving or disposing of property securing an allowed secured claim. Such obligations must be recovered even if the trustee has otherwise waived the provisions of section 506(c) pursuant to an agreement with the allowed secured claimant or a successor or predecessor in interest.

Sec. 206. Preservation of Jobs and Benefits. Section 206 adds a statement of purpose to chapter 11 of the Bankruptcy Code specifying that a chapter 11 debtor must have as its principal purpose the reorganization of its business to preserve going concern value to the maximum extent possible through the productive use of its assets and the preservation of jobs that will sustain productive economic activity.

In addition, section 206 amends Bankruptcy Code section 1129(a), which sets out the criteria for confirming a plan, to add a new requirement. New section 1129(a)(17) requires the debtor to demonstrate that the reorganization preserves going concern value to the maximum extent possible through the productive use of the debtor's assets and preserves jobs that sustain productive economic activity.

Section 206 also amends Bankruptcy Code section 1129(c), which requires the court to consider the preferences of creditors and equity security holders in determining which plan to confirm. Section 1129(c), as amended, instead requires the court to consider the extent to which each plan would preserve going concern value through the productive use of the debtor's assets and the preservation of jobs that sustain productive economic activity. The court must confirm the plan that better serves such interests. It further provides that a plan that incorporates the terms of a settlement with a labor organization shall presumptively constitute the plan that satisfies this provision.

Sec. 207. Termination of Exclusivity. Bankruptcy Code section 1121, in pertinent part, gives a debtor the exclusive authority to file a plan and obtain acceptances of such plan for stated periods of time, under certain circumstances. Section 207 amends section 1121 to specify that cause for shortening these exclusive periods includes: (1) the filing of a motion pursuant to section 1113 seeking rejection of a collective bargaining agreement, if a plan based upon an alternative proposal by the labor organization is reasonably likely to be confirmed within a reasonable time or (2) the proposed filing of a plan by a proponent other than the debtor, which incorporates the terms of a settlement with a labor organization, if such plan is reasonably likely to be confirmed within a reasonable time.

TITLE III—RESTRICTING EXECUTIVE COMPENSATION PROGRAMS

Sec. 301. Executive Compensation Upon Exit From Bankruptcy. Bankruptcy Code section 1129 specifies the criteria for confirmation of a chapter 11 plan. Section 1129(a)(4), for example, requires that certain services, costs and expenses in connection with the case (or in connection with the plan and incident to the case) to have either been approved by the court (or subject to approval by the court) as reasonable.

Section 301 amends section 1129(a)(4) to add a requirement that payments or other distributions under the plan to or for the benefit of insiders, senior executive officers, and any of the 20 next most highly compensated employees or consultants providing services to the debtor may not be approved unless: (1) such compensation is subject to review under section 1129(a)(5), or (2) such compensation is included as part of a program of payments or distributions generally applicable to the debtor's employees and only to the extent that the court determines that such payments are not excessive or disproportionate as compared to distributions to the debtor's nonmanagement workforce.

In addition, section 301 amends section 1129(a)(5), which requires the plan proponent to disclose the identity and affiliations of the debtor's officers and others, such as the identity of any insider who will be employed or retained by the reorganized debtor and such insider's compensation.

Section 301 amends section 1129(a)(5) to add a requirement that such compensation must be approved (or subject to approval) by the court in accordance with the following criteria: (1) the compensation is reasonable when compared to that paid to individuals holding comparable positions at comparable companies in the same industry; and (2) the compensation is not disproportionate in light of economic concessions by the debtor's nonmanagement workforce during the case.

Sec. 302. Limitations on Executive Compensation Enhancements. In general, Bankruptcy Code Section 503(c) prohibits a debtor from making certain payments to an insider, absent certain findings by the court.

Section 302 amends section 503(c)(1), which prohibits such payments when they are intended to induce the insider to remain with the debtor's business, in several respects. First, it expands the provision so that it applies a debtor's senior executive officer and any of the debtor's 20 next most highly compensated employees or consultants. Second, it clarifies that the provision prohibits the payment of performance or incentive compensation, a bonus of any kind, and other financial returns designed to replace or enhance incentive, stock, or other compensation in effect prior to the commencement of the case. And, third, it specifies that the court's findings must be based on clear and convincing evidence in the record.

In addition, section 302 also amends Bankruptcy Code section 503(c)(3), which prohibits other transfers made or obligations incurred outside of the debtor's ordinary course of business and not justified by the facts and circumstances of the case, including transfers made and obligations incurred for the benefit of the debtor's officers, managers or consultants hired postpetition.

Section 302 replaces section 503(c)(3) with a provision prohibiting other transfers or obligations incurred to or for the benefit of insiders, senior executive officers, managers or consultants providing services to the debtor unless they meet certain criteria. First, the court must find, based on clear and convincing evidence (without deference to the debtor's request for authorization to make such payments), that such payments are essential to the survival of the debtor's business or, in the case of a liquidation, essential to the orderly liquidation of the debtor's business and maximization of the value of the debtor's assets. Second, the services for which compensation is sought must be essential in nature. Third, such payments must be reasonable compared to individuals holding comparable positions at comparable companies in the same industry and not disproportionate in light of economic concessions made by the debtor's nonmanagement workforce during the case.

Sec. 303. Assumption of Executive Retirement Plans. Section 303 amends Bankruptcy Code section 365, which sets forth the criteria pursuant to which executory contracts and unexpired leases may be assumed and rejected, to add two provisions. New subsection (q) provides that no deferred compensation arrangement for the benefit of a debtor's insiders, senior executive officers, or any of the 20 next most highly compensated employees may be assumed if a defined benefit pension plan for the debtor's employees has been terminated pursuant to section 4041 or 4042 of ERISA on or after the commencement of the case or within 180 days prior to the commencement of the case.

New subsection (r) provides that no plan, fund, program, or contract to provide retiree benefits for insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor may be assumed if the debtor: (1) has obtained relief under subsection (g) or (h) of section 1114 to impose reductions in retiree benefits; (2) has obtained relief under subsection (d) or (e) of section 1113 to impose reductions in the health benefits of the debtor's active employees; or (3) or reduced or eliminated active employee or retiree benefits within 180 days prior to the commencement of the case.

Sec. 304. Recovery of Executive Compensation. Section 304 adds a new provision to the Bankruptcy Code. New section 563(a) provides that if a debtor reduces its contractual obligations under a collective bargaining agreement pursuant to section 1113(d), or retiree benefits pursuant to section 1114(g), then the court, as part of the order granting such relief, must make certain determinations. The court must determine the percentage of diminution in the value of the obligations as a result of such relief. In making this determination, the court must include any reduction in benefits as a result of the termination pursuant to section 4041 or 4042 of ERISA of a defined benefit plan administered by the debtor, or for which the debtor is a contributing employer, effective at any time within 180 days prior to the commencement of the case. The court may not take into consideration pension benefits paid or payable under title IV of ERISA as a result of such termination.

If a defined benefit pension plan administered by the debtor, or for which the debtor is a contributing employer, is terminated pursuant to section 4041 or 4042 of ERISA, effective at any time within 180 days prior to the commencement of the case, and the debtor has not obtained relief under section 1113(d), or section 1114(g), new section 563(b) requires the court, on motion of a party in interest, to determine the percentage in diminution in the value of benefit obligations when compared to the total benefit liabilities prior to such termination. The court may not take into account pension benefits paid or payable pursuant to title IV of ERISA as a result of such termination.

After such percentage diminution in value is determined, new section 563(c) provides that the estate has a claim for the return of the same percentage of the compensation paid, directly or indirectly (including any transfer to a self-settled trust or similar device, or to a nonqualified deferred compensation plan under section 409A(d)(1) of the Internal Revenue Code of 1986) to certain individuals. These individuals include: (1) any officer of the debtor serving as a member of the debtor's board of directors within the year before the filing of the case; and (2) any individual serving as chairman or as lead director of the board of directors at the time when relief under section 1113 or section 1114 is granted, or if no such relief has been granted, then the termination of the defined benefit plan.

New section 563(d) provides that a trustee or committee appointed pursuant to section 1102 may commence an action to recover such claims. If neither commences such action by the first date set for the confirmation hearing, any party in interest may apply to the court for authority to recover such claims for the benefit of the estate. The costs of recovery must be borne by the estate.

New section 563(e) prohibits the court from awarding postpetition compensation under section 503(c) or otherwise to any person subject to the provisions of section 563(c) if there is a reasonable likelihood that such compensation is intended to reimburse or replace compensation recovered by the estate pursuant to section 563.

Sec. 305. Preferential Compensation Transfer. Bankruptcy Code section 547 authorizes preferential transfers to be avoided. Section 305 adds a new subsection to section 547 to permit the avoidance of a transfer to or for the benefit of an insider (including an obligation incurred for the benefit of an insider under an employment contract) made in anticipation of bankruptcy. The provision also permits the avoidance of a transfer made in anticipation of a bankruptcy to a consultant who is formerly an insider and who is retained to provide services to an entity that becomes a debtor (including an obligation under a contract to provide services to such entity or to a debtor) made or incurred within one year before the filing of the bankruptcy case. In addition, new section 547(j) provides that no provision of section 547(c) (specifying certain exceptions to section 547) may be utilized as a defense. Further, section 547(j) permits the trustee or a committee to commence such avoidance action. If neither do so as of the date of the commencement of the confirmation hearing, any party in interest may apply to the court for authority to recover the claims for the benefit of the estate. The costs of recovery must be borne by the estate.

TITLE IV—OTHER PROVISIONS

Sec. 401. Union Proof of Claim. Section 401 amends Bankruptcy Code section 501(a) to permit a labor organization (in addition to a creditor or indenture trustee) to file a proof of claim.

Sec. 402. Exception from Automatic Stay. Section 402 amends Bankruptcy Code section 362(b) to create an additional exception to the automatic stay with respect to the commencement or continuation of a grievance, arbitration or similar dispute resolution proceeding established by a collective bargaining agreement that was or could have been commenced against the debtor before the filing of the bankruptcy case. The exception also applies to the payment or enforcement of awards or settlements of such proceeding.

CORAL REEF CONSERVATION ACT REAUTHORIZATION AND ENHANCEMENT AMENDMENTS OF 2013

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Ms. BORDALLO. Mr. Speaker, today I reintroduced a bill to amend and reauthorize the Coral Reef Conservation Act of 2000. Conservation of coral reef ecosystems is essential to protect public health, promote environmental sustainability, and ensure long-term economic progress for the jurisdictions we represent in Congress. The sovereign waters of the United States off the coast of Guam, and in the Pacific region as a whole, contain a majority of the shallow-water coral reefs in the United States, as well as some of the world's greatest coral reef biodiversity. These reefs, and reefs around the world, provide habitat and shelter for fisheries, provide food and recreation for our residents, and are the basis for marine tourism industries.

Coral reefs also provide important mitigation from extreme weather events, including hurricanes and typhoons, by absorbing up to 90% of wave energy, mitigating some of the most costly aspects of severe storms. Coastal storms account for 71% of annual disaster losses. Healthy reef systems may protect an estimated $47,000 of property value for every meter of reef during severe weather events.

Today, however, various pressures on the world's reefs threaten to destroy them and the numerous ecosystem services, valued at over $8 billion, which they provide. These threats have led the National Oceanic and Atmospheric Administration to propose that 54 species be listed as threatened and 12 species be listed as endangered under the Endangered Species Act of 1973. Unless the United States acts in conjunction with the global community to support focused, prolonged action on coral reef education, research, and management, the condition of our coral reefs will continue to degrade.

Since its enactment in 2000, the Coral Reef Conservation Act has stimulated a greater commitment to protect, conserve, and restore coral reef resources within jurisdictional waters of the United States. As a result, we now have a much better grasp of the condition of our coral reefs, and more focused management capability than at any time in our history. The Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2013 expands emergency response mechanisms, establishes a new community-based planning grants program, promotes international cooperation, and recognizes the important contributions of the U.S. Department of the Interior in coral reef management and conservation efforts. The bill does not authorize any new funding.

This bill would also codify the United States Coral Reef Task Force established in 1998 by President Clinton through Executive Order 13089. The work of the Task Force and its mission to coordinate the efforts of the United States in promoting conservation and the sustainable use of coral reefs internationally is vital to our interests. Since 1998, the Task Force has acted to facilitate and support better management and conservation of coral reef resources at the local level. Many beneficial efforts, such as the development and implementation of local action strategies to address threats to our reefs, are underway thanks to the work of the Task Force and its member agencies.

I would like to thank Reps. PIERLUISI, FARR, CHRISTENSEN, and WASSERMAN SCHULTZ for joining me as original cosponsors and I look forward to working with my colleagues on both sides of the aisle to advance this legislation to enhance our capacity for the conservation and restoration of healthy and diverse coral reef ecosystems.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. COFFMAN. Mr. Speaker, on January 3, 2009, the day I took office, the national debt was $10,627,961,295,930.67.

Today, it is $16,432,705,914,255.48. We've added $5,804,744,618,324.81 to our debt in 4 years. This is a $5.8 trillion in debt our nation, our economy, and our children could have avoided with a Balanced Budget Amendment. I have advocated for a Balanced Budget Amendment since I was sworn in for this very reason.

I will be once more forming the Balanced Budget Amendment Caucus to fight for a return to fiscal responsibility. We must stop this unconscionable accumulation of debt.

INTRODUCTION OF THE HEALTH INSURANCE INDUSTRY ANTITRUST ENFORCEMENT ACT OF 2013

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. CONYERS. Mr. Speaker, today I am pleased to introduce the Health Insurance Industry Antitrust Enforcement Act of 2013.

This bill would level the playing field between health care professionals and insurance companies in the health care industry and improve the quality of patient care. The Health Insurance Industry Antitrust Enforcement Act of 2013 would eliminate the antitrust immunity provided under the McCarran-Ferguson Act for price fixing, bid rigging, and market allocation by health insurance issuers or medical malpractice insurers. The bill would also repeal the McCarran-Ferguson exemption for the business of health insurance and enable enforcement by the Federal Trade Commission.

The purpose of this bill is to extend antitrust enforcement over health insurers and medical malpractice insurance issuers, which currently enjoy broad antitrust immunity under the McCarran-Ferguson Act. This immunity can serve as a shield for activities that might otherwise violate federal law.

This bill will end the mistake Congress made in 1945 when it added an antitrust exemption for insurance companies into the McCarran-Ferguson Act. The blanket antitrust exemption created by the 1945 bill has shielded health insurance companies from legal accountability for decades. Our nation's antitrust laws exist to protect free-market competition and this bill will restore competition to the health insurance marketplace.

The House Judiciary Committee held extensive hearings on the effects of the insurance industry's antitrust exemption throughout the 1980s and early 1990s. It became clear that the exemption was not needed to enable the insurance industry to provide any service to their policyholders, and that policyholders and the economy in general would benefit from increased competition among insurance providers.

I urge my colleagues to support this bill because it would prohibit price fixing, bid rigging, and market allocation, pernicious practices that are detrimental to competition and result in fewer options and higher prices for consumers.

The bill I introduce today is intended to root out unlawful activity in an industry that has grown complacent by decades of protection from antitrust oversight. In doing so, we aim to make health insurance more affordable to more Americans.

THE 2ND ANNUAL DR. MARTIN LUTHER KING JR. MEMORIAL TRIBUTE

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. CLAY. Mr. Speaker, I rise today to give distinct recognition to the 2nd Annual Dr. Martin Luther King Jr. Memorial Tribute—an event paying tribute to men and women of diverse social strata committed to strengthening civil rights, corporate responsibility, civic involvement, education and humanitarian efforts through dedicated responsibilities.

Saint Louis University will honor six distinguished individuals at the event, with the Donald Brennan Humanitarian Award bestowed upon Dr. Karla Scott, Director of Black Studies for the University. In addition, the Martin Luther King Civil Rights Award will recognize Ms. Xernona Clayton, for her extraordinary commitment to the advancement of the civil rights movement.

Other awardees include Kathy Osborn, the President and CEO of the Regional Business Council for her civic dedication, Judge Jimmie Edwards, founder of the Innovative Concept Academy for bridging the academic achievement gap of African American students, and James Buford, President and Chief Executive Officer of the Urban League of Metropolitan St. Louis for his leadership in service to the community.

This year's celebrated corporate leadership awards will honor the efforts of Thomas Voss and Keith Williamson. Voss, the President of Ameren Corporation, and Williamson, Senior Vice President of Centene Corporation have demonstrated exemplary social responsibility to remove barriers to the success of minorities through their business models, accomplishments and corporate giving.

Mr. Speaker, the 2nd Annual Dr. Martin Luther King Jr. Tribute inspires advocacy for social justice through the works, accomplishments and deeds of the honored men and women. I urge my colleagues to join me in recognizing this event slated to be held this January in the beautiful City of St. Louis.

INTRODUCTION OF THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. GOODLATTE. Mr. Speaker, I rise to reintroduce legislation that will amend the United States Constitution to force Congress to rein in spending by balancing the federal budget.

We have a spending addiction in Washington, DC, and it has proven to be an addiction that Congress cannot control on its own and which is bringing dire consequences. We have gone in a few short years from a deficit of billions of dollars to a deficit of trillions of dollars. We are printing money at an unprecedented pace, which presents serious risks of massive inflation. Our national debt recently surpassed an astonishing $16 trillion and continues to rapidly increase, along with the waste associated with paying the interest on that debt.

Our first Secretary of State, Thomas Jefferson, warned of the consequences of out-of-control debt when he wrote: "To preserve [the] independence [of the people,] we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude." Unfortunately, it increasingly appears that Congress has chosen the latter path.

Our current Secretary of State, Hillary Clinton, issued a similar warning when she recently declared: "I think that our rising debt levels[sic] poses a national security threat, and it poses a national security threat in two ways. It undermines our capacity to act in our own interest, and it does constrain us where constraint may be undesirable. And it also sends a message of weakness internationally." Despite these warnings, Congress has refused to address this crisis.

Congress' spending addiction is not a partisan one. It reaches across the aisle and afflicts both parties, which is why neither party has been able to master it. We need outside help. We need pressure from outside Congress to force Congress to rein in this out-of-control behavior. We need a balanced budget amendment to our Constitution.

That is why I am introducing this legislation, which garnered 261 bipartisan votes when it came before the House for a vote last Congress. This bill would amend the Constitution to require that total spending for any fiscal year not exceed total receipts and require the President to propose budgets to Congress that are balanced each year. It would also provide an exception in times of war and during military conflicts that pose imminent and serious military threats to national security.

Furthermore, the legislation would make it harder to increase taxes by requiring that legislation to increase revenue be passed by a true majority of each chamber and not just a majority of those present and voting. Finally, the bill requires a 3/5 majority vote for any increases in the debt limit.

Our federal government must be lean, efficient and responsible with the dollars that our nation's citizens worked so hard to earn. We must work to both eliminate every cent of waste and squeeze every cent of the value out of each dollar our citizens entrust to us. Families all across our nation understand what it means to make tough decisions each day about what they can and cannot afford and government officials should be required to exercise similar restraint when spending the hard-earned dollars of out nation's citizens.

By amending the Constitution to require a balanced budget, we can force the Congress to control spending, paving the way for a return to surpluses and ultimately paying down the national debt, rather than allow big spenders to lead us further down the road of chronic deficits and in doing so leave our children and grandchildren saddled with debt that is not their own.

This concept is not new. 49 out of 50 states have a balanced budget requirement.

Our nation faces many difficult decisions in the coming years, and Congress will face great pressure to spend beyond its means rather than to make the difficult decisions about spending priorities. Unless Congress is forced to make the decisions necessary to create a balanced budget, it will always have the all-too-tempting option of shirking this responsibility. The Balanced Budget Constitutional amendment is a common sense approach to ensure that Congress is bound by the same fiscal principles that guide America's families each day.

I urge support of this important legislation.

SALUTE TO SLOVAK REPUBLIC

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. MICA. Mr. Speaker, I rise today to congratulate our ally and friend, the Republic of slovakia, on her 20th anniversary of independence.

In two brief decades, Slovakia has dramatically transitioned to an independent, democratic and economically viable free nation.

As some of my colleagues may know, my great grandparents emigrated from Slovakia to the United States at the turn of the last century. Like so many others, my family was drawn to America by the promises of freedom and opportunity. My ancestors would be proud to see both the progress of America over that century and the positive development of the Slovak Republic in its 20 years of independence.

For a millennia, the Slovak people were ruled or governed by others. After centuries of power shifts and realignments, in 1989, the Velvet Revolution brought down the communist regime in Czechoslovakia. Democracy came to that nation as formerly jailed dissident and political activist Vaclav Havel was elected to the presidency. However, the Slovak people's yearning for self-governance was not realized until 1993.

Following the peaceful separation of the Czech and Slovak Republics, January 1, 1993 marks the birth of the Second Slovak Republic. As fate would have it, days later I was sworn in as a Member of the U.S. House of Representatives. As one of the Members of Congress with Slovak ancestry, I have been proud to work with many who have been so successful in strengthening U.S.-Slovak relations and to aid in the political and economic development of the Slovak Republic.

Like any new democracy, the Slovak Republic has experienced some growing pains. After President Michal Kovács service as the first president, my good friend and former Košice Mayor Rudolf Schuster was elected president after a constitutional amendment changed the presidency to a directly elected position. His successor is now President Ivan Gašparovič. I commend these and all the other Slovak leaders who have helped fashion a new era for their people.

Even with many difficult challenges as a new nation, the Slovak Republic made outstanding progress over the last 20 years, and I am proud to have played a very small part in its history. In 2000, Slovakia became a member of the Organization for Economic Cooperation and Development and in 2004, joined both NATO and the European Union. The Republic of Slovakia and its people continue to provide international leadership both in Europe and throughout the world.

For the United States and the American people, we are fortunate to have such a strong ally and friend in the family of nations. So today we salute and congratulate the Slovak Republic on the special occasion of their 20th anniversary of independence. We wish them every continued future success as they mark this historic milestone.

I ask my colleagues to join me in congratulating the Slovak Republic and look forward to peace and prosperity for both of our countries for decades to come.

INTRODUCTION STATEMENT; H.R. 40 THE COMMISSION TO STUDY REPARATION PROPOSALS FOR AFRICAN-AMERICANS ACT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. CONYERS. Mr. Speaker, I am pleased to re-introduce H.R. 40, the Commission to Study Reparations Proposals for African-Americans Act. Since I first introduced H.R. 40 in 1989, we have made substantial progress in elevating this issue in the national consciousness. Through legislation, state and local resolutions and litigation, we are moving closer to a full dialogue on the role of slavery in building this country.

In the 110th Congress, the House passed a slavery apology bill on July 29, 2008, in which the House issued a formal apology for slavery. The Senate followed on July 18, 2009, with the passage of S. Con. Res. 26 which was sponsored by Tom Harkin of Iowa. In recognition of the 200th anniversary of the abolition of the transatlantic slave trade on January 1, 1808, both the House and Senate passed legislation creating a commemoration commission, which was signed into law on February 5, 2008. I believe that such Federal efforts are significant steps toward proper acknowledgment and understanding of slavery and its implications, but our responsibilities on this matter are even greater.

The establishment of a commission to study the institution of slavery in the United States, as well as its consequences that reach into modern day society, is our responsibility. This concept of a commission to address historical wrongs is not unprecedented. In fact, in recent Congresses, commission bills have been put forward.

In 1983, a Presidential Commission determined that the internment of Japanese Americans during World War II was racist and inhumane, and as a result, the 1988 Civil Liberties Act provided redress for those injured by the internment. However, the internment of Japanese Latin Americans in the United States during World War II was not examined by the Commission, resulting in legislation calling for a commission to examine this oversight. Legislation establishing a commission to review the injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II has also been proposed.

H.R. 40 is no different than these other commission bills. H.R. 40 establishes a commission to examine the institution of slavery and its legacy, like racial disparities in education, housing, and healthcare. Following this examination, the commission would recommend appropriate remedies to Congress. As I have indicated before, remedies do not equate to monetary compensation.

In the 110th Congress, I convened the first Congressional hearing on H.R. 40. With witnesses that included Professor Charles Ogletree, Episcopal Bishop M. Thomas Shaw, and Detroit City Councilwoman JoAnn Watson, we began a formal dialogue on the legacy of the transatlantic slave trade. This Congress, I look forward to continuing this conversation so that our nation can better understand this part of our history.

Attempts to eradicate today's racial discrimination and disparities will be successful when we understand the past's racial injustices and inequities. A commission can take us into this dark past and bring us into a brighter future. As in years past, I welcome open and constructive discourse on H.R. 40 and the creation of this commission in the 113th Congress.

THE ILLEGAL, UNREPORTED, AND UNREGULATED FISHING ENFORCEMENT ACT OF 2013

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Ms. BORDALLO. Mr. Speaker, today I reintroduce legislation to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated (IUU) fishing. Illegal fishing threatens the economic and social infrastructure of fishing communities, and the security of the United States and our allies around the world, by decreasing opportunities for legitimate and conscientious fishermen.

Guam, and the other Pacific islands, host rich fisheries resources, including pristine reefs, diverse communities of reef fish, and large populations of sharks and valuable tuna; important economic and cultural assets for the islands. IUU fishing threatens these resources. There have been several incidents of foreign fishing vessels operating within the United States' EEZ with impunity—a significant national security and economic risk to our country.

This problem can be particularly acute in places like Guam, where the EEZ is vast, and where the United States Coast Guard, despite its best efforts, has insufficient resources to patrol all of our waters. The United States' Pacific lands represent 43% of the EEZ. Our focus should be on the posture of our Coast Guard in the Asia-Pacific region. The Navy and Coast Guard have recognized the economic and security threats posed by illegal fishing in Oceania and it is incumbent on the Administration and Congress to put resources towards these requirements.

The loss of economic opportunity weakens our allies in the Pacific and strengthens resource conflicts in the region. Recent reports have documented that IUU fishing accounts for between 10 and 22% of the reported global fish catch, or $9–24 billion in gross revenues each year (MRAG, 2009, Sumaila et al., 2006 and Agnew et al., 2009). The Coast Guard estimates that over $1.7 billion is lost annually to IUU fishing in the Pacific Islands. Additional action is needed from Congress if we are to be successful in combating IUU fishing and the depletion of fish stocks worldwide. This bill will help to provide our Coast Guard with the tools to better enforce regulations throughout the sector.

The ''Illegal, Unreported, Unregulated Fishing Enforcement Enhancement Act of 2013,'' which I introduced today, further enhances the enforcement authority of NOAA and the U.S. Coast Guard to regulate IUU fishing. This bill would amend international and regional fishery management organization (RFMO) agreements to incorporate the civil penalties, permit sanctions, criminal offenses, civil forfeitures and enforcement sections of the Magnuson-Stevens Fishery Conservation and Management Act. It would strengthen enforcement authority of NOAA and the U.S. Coast Guard to inspect conveyances, facilities, and records involving the storage, processing, transport and trade of fish and fish products, and to detain fish and fish products for up to five days while an investigation is ongoing.

In addition, this bill makes technical adjustments allowing NOAA to more effectively carry out current IUU identification mandates, including extending the duration of time for identification of violators from the preceding two years to the preceding three years. This bill broadens data sharing authority to enable NOAA to share information with foreign governments and clarifies that all information collected may be shared with international organizations and foreign governments for the purpose of conducting enforcement. This bill would also establish an international cooperation and assistance program to provide technical expertise to other nations to help them address IUU fishing. This bill, however, does not authorize new funding or appropriations. The bill is a cost neutral measure that would enhance our nation's security.

Finally, this bill implements the Antigua Convention, an important international agreement that provides critical updates to the principles, functions, and processes of the Inter-American Tropical Tuna Commission (IATTC) to manage fisheries in the eastern Pacific Ocean. The Antigua Convention modernizes the IATTC and increases its capacity to combat IUU fishing and illegal imports of tuna product. Without implementing legislation, the U.S. does not have the authorities necessary to satisfy its commitments under the Antigua Convention, including addressing IUU in the eastern Pacific Ocean.

Increased enforcement increases stability among our allies in the Western Pacific. Many nations depend upon fishing as a vital component of their national economy. Fishing communities are the lifeblood of Guam, part of a cultural history extending back centuries. Protecting our fishermen from illegal fishing enhances economic opportunities and protects cultural and natural resources that our communities rely upon. IUU fishermen are ''free riders'' who benefit unfairly from the sacrifices made by U.S. fishermen and others for the sake of proper fisheries conservation and management.

I would like to thank Reps. MARKEY, SABLAN, PIERLUISI, and CHRISTENSEN for joining me as original cosponsors and I look forward to working with my colleagues on both sides of the aisle to advance this important bill through the legislative process.

HIGHER TAXES, MORE SPENDING: NOT A COMPROMISE

HON. DAVID B. McKINLEY

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. MCKINLEY. Mr. Speaker, as Congress approached the final hours before going over the so-called ''fiscal cliff,'' the House was faced with a difficult choice. It could amend the controversial Senate plan and return it to them or the House could accept or reject it. Amending the plan was not a viable option because the Senate had refused to consider any changes. Thus it became a ''take it or leave it'' vote. I was elected to come to Washington to reduce the size of government and decrease spending; therefore, I voted against the flawed Senate plan.

In summary: although the legislation had certain positive attributes, the principal effect of the bill raised taxes, increased spending and only promised future spending cuts. It failed to address our long-term debt problem and looks nothing like the balanced approach promised by President Obama. America is now burdened with more than $16 trillion of debt, and Congress has failed to cut spending that it promised the public.

Let's have a splash of reality: America is facing another $1.2 trillion deficit for this year as it has for the past four years. This solution adopted by Congress not only does not reduce this year's deficit, but it adds to it. According to the official estimate by the Congressional Budget Office, the Senate deal includes more than $330 billion in new deficit spending over the next decade.

Additionally, the bill calls for $620 billion in increased tax revenues over ten years but incredibly includes only $15 billion in spending reductions. That equates to a ratio of $1 in spending cuts to $41 in increased tax revenue, even though the President promised $2.50 in spending cuts for every $1 in new revenue during his campaign. The highly touted Simpson-Bowles Commission recommended a 3:1 ratio.

It should be self-evident that the $60 billion in new revenue annually is woefully insufficient to pay down the deficit. Where will we find the remaining $1.14 trillion to eliminate the deficit? We have a spending problem in Washington, not a taxing problem.

I had been willing to support a compromise that included additional, but limited, tax revenue if the plan also had included significant spending reductions and commonsense entitlement reforms. However the bill lacked that balance.

These concerns were not limited to conservatives. Senator MICHAEL BENNET (D–CO) also opposed the plan on these same grounds, saying, ''We want a plan that materially reduces the deficit. This proposal does not meet that standard and does not put in place a real process to reduce the debt down the road.''

In a similar statement, Chairman of the Federal Reserve Ben Bernanke called the current levels of spending ''unsustainable,'' and cautioned that ''fiscal policy must be placed on a sustainable path that eventually results in a stable or declining ratio of federal debt to GDP.''

This plan does nothing to put us on that sustainable path.

Americans once again are being promised spending cuts in the future in exchange for immediate increases in taxes. We've seen this movie before—the spending cuts unfortunately never happen.

This has played out twice with similar results:

In 1982, Congress promised President Reagan $3 in spending cuts for every $1 in tax hikes but the spending cuts never happened.

In 1990, President George H.W. Bush reluctantly agreed to $2 in spending cuts for every $1 in tax increases but none of those cuts occurred either.

The frustration of this process takes its toll. The final bill was presented in the Senate in the early morning hours and hastily cobbled together. Senators had only minutes to review the legislation before voting on it. According to one Senate aide, their office was emailed a copy of the legislation at 1:36 a.m. and the vote began nine minutes later at 1:45 a.m. The Senate obviously was not given sufficient time to read the bill that was over 150 pages long.

For the Senate to agree to legislation in the wee hours of the morning without a thorough review is not how the process should work. It reminds me of the quote from NANCY PELOSI during the debate over ObamaCare when she said, "we have to pass the bill to find out what's in it."

With more time to review the bill, we found that not only does it increase taxes with almost no spending cuts, but it also includes other questionable provisions such as:

$12.1 billion in tax breaks for wind energy;

$222 million in loopholes for Puerto Rican rum producers;

$248 million in incentives for Hollywood studios; and

$62 million in tax breaks for American Samoa businesses.

America can't afford this.

As my record reflects, I have already voted to extend the Bush-era tax rates for all Americans and $5.5 trillion in spending cuts—both of which were opposed by the Senate. I will continue to fight to maintain the lowest tax burden for middle class families and small businesses and work to stop Washington's addiction to spending.

The Senate sent us a bill that contained tax increases, no significant spending cuts, increased the federal debt and then refused to consider any changes from the House. Therefore I had no other recourse but to oppose the final plan.

I am hopeful in the coming months we can move past this end-of-year mess and turn our attention to stopping out-of-control spending. Congress needs to address the real problem facing our country—excessive government spending that will be paid for by our children and grandchildren.

RECOGNIZING PLEASANT HOPE HIGH SCHOOL SOFTBALL

HON. BILLY LONG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. LONG. Mr. Speaker, I rise today to recognize the Pleasant Hope High School Softball Team on their victory in the Class 2 State Championships.

The Lady Pirates' come-from-behind victory over Brookfield capped off their 28–2 season with Pleasant Hope's first ever State championship.

These young ladies ended the season as one of the greatest offensive teams in the history of Missouri. They batted an astounding .415 as a team, held an on base percentage of .456, and were successful with 95 out of 100 stolen base attempts. Their dominant play style allowed them to amass 353 hits over the course of their 30 games.

I congratulate the school and the players on their victory, and applaud the hard work that has brought them so much success. I am proud to recognize the athletic achievements of the residents of the Seventh District of Missouri.

INTRODUCTION OF THE "JOHN HOPE FRANKLIN TULSA-GREENWOOD RIOT ACCOUNTABILITY ACT"

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. CONYERS. Mr. Speaker, I am pleased to reintroduce the John Hope Franklin Tulsa-Greenwood Riot Accountability Act. This legislation will create a federal cause of action to allow the survivors of the Tulsa-Greenwood Riot of 1921 to seek a determination on the merits of their civil rights and other claims against the perpetrators of the riot in a federal court of law.

This legislation is named in honor of the late Dr. John Hope Franklin, the noted historian, who was a first-hand witness to the destructive impact that the riot had on the African-American community of Tulsa. Dr. Franklin made numerous scholarly contributions to the understanding of the long term effects of the riot on the city and worked to keep the issue alive in history and on the minds of policymakers. On April 24, 2007, he served as a witness, testifying in favor of the legislation, and its passage would be a fitting tribute to his memory and to a community that has never received its fair day in court.

The Greenwood neighborhood of Tulsa, Oklahoma, was one of the Nation's most prosperous African-American communities entering the decade of the Nineteen Twenties. Serving over 8000 residents, the community boasted two newspapers, over a dozen churches, and hundreds of African-American-owned businesses, with the commercial district known nationally as the "Negro Wall Street." In May 1921, all that came to an end as 42 square blocks of the community were burned to the ground and up to 300 of its residents were killed by a racist mob. In the wake of the violence, the State and local governments quashed claims for redress and effectively erased the incident from official memory.

The 1921 Tulsa Race Riot was one of the most destructive and costly attacks upon an American community in our Nation's history. However, no convictions were obtained for the incidents of murder, arson or larceny connected with the riot, and none of the more than 100 contemporaneously filed lawsuits by residents and property owners were successful in recovering damages from insurance companies to assist in the reconstruction of the community.

The case of the Tulsa-Greenwood Riot victims is worthy of congressional attention because substantial evidence suggests that governmental officials deputized and armed the mob and that the National Guard joined in the destruction. The report commissioned by the Oklahoma State Legislature in 1997, and published in 2001, uncovered new information and detailed, for the first time, the extent of the involvement by the State and city government in prosecuting and erasing evidence of the riot. This new evidence was crucial for the formulation of a substantial case, but its timeliness raised issues at law, and resulted in a dismissal on statute of limitation grounds. In dismissing the survivor's claims, however, the Court found that extraordinary circumstances might support extending the statute of limitations, but that Congress did not establish rules applicable to the case at bar. With this legislation, we have the opportunity to provide closure for a group of claimants—many over 100 years old—and to close the book on a tragic chapter in history.

Racism, and its violent manifestations, are part of our Nation's past that we cannot avoid. With the prosecution of historic civil rights claims, both civil and criminal, we encourage a process of truth and reconciliation that can heal historic wounds. In this case, the Court took "no great comfort" in finding that there was no legal avenue through which the plaintiffs could bring their claims. The "Tulsa-Greenwood Riot Accountability Act" would simply give Tulsans and all Oklahomans, white and black, victims and non-victims, their day in court. Without that opportunity, we will all continue to be victims of our past.

SUPPORT OF A RESOLUTION TO PERMIT DELEGATES AND THE RESIDENT COMMISSIONER TO THE CONGRESS TO CAST VOTES IN THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Ms. BORDALLO. Mr. Speaker, I rise today in support of the resolution offered by my good friend and colleague, Minority Whip STENY HOYER of Maryland, to restore the voting rights for the Delegates and Resident Commissioner during Committee of the Whole proceedings.

The ability to cast a vote is the most basic of rights in our representative democracy. In the people's House, votes cast by members of Congress make us accountable to our constituents and allow them to understand where we stand on important issues. The rules that have been adopted by the 113th Congress once again remove voting rights for members from the territories and the District of Columbia and continue to make this body less transparent and less responsive to the more than four million Americans who live in our districts.

These votes are wholly symbolic—they cannot change the outcome of legislation or amendments considered on the floor of this House. But these votes allow us to ensure that the needs of our constituents are addressed in legislation considered by this body.

Further, many men and women in uniform come from the territories and the District of Columbia. These dedicated servicemembers sacrifice much for our country, and many have paid the ultimate sacrifice in defense of our freedom. In fact, the per capita death rate for servicemembers from the territories is higher than most states. Unfortunately our majority has determined that despite their service, and the many contributions of the territories and District of Columbia, our constituents will be less represented in the House.

Mr. Speaker, giving the Delegates and Resident Commissioner the ability to vote during Committee of the Whole proceedings will allow our voices to be heard during legislation considered by the full House. It will give us parity with other members and strengthen the long-cherished values of this body.